

## **Mini Market Existence in the City of Denpasar after Application Decision of the Mayor of Denpasar Number 188.45/495/Hk/2011 in Business Competition Legal Perspective**



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**ABSTRACT:** Changes in lifestyle and consumptive patterns of city people who shift to want convenience and practicality have led to the rise of minimarkets in big cities, especially Denpasar City. To prevent this from happening, the Denpasar City Government made a Mayor Regulation in 2009 to handle traditional markets, shopping centers and modern shops. According to the provisions of Denpasar Mayor Regulation Number 9 of 2009, before obtaining a permit for a modern shop in Denpasar City, parties applying for a minimarket permit in Denpasar City must comply with the Regional Spatial Plan and Detailed Spatial Plan, as well as the Zoning Regulations. The procedure for issuing permits for minimarkets in Denpasar City is carried out by cross-agency agencies, namely the Licensing Service, the Industry and Trade Service, and the Public Works Office. However, after several minimarket quotas in Denpasar were running, they exceeded the predetermined limit, so the Denpasar City government issued Denpasar Mayor Decree Number 188.45/495/Hk/2011, which was not implemented properly.

**KEYWORDS:** Existence, Minimarket, Business competition

### **I. INTRODUCTION**

The increasing spread of minimarkets in Denpasar City must still refer to the provisions of the Denpasar City Spatial Plan as stipulated in Regional Regulation Number 27 of 2011 concerning the Denpasar City Spatial Plan for 2011-2031. The arrangement of regional-scale modern shops, namely supermarkets and smaller-scale stores in residential centers, is regulated in paragraph 3 of the Allotted Trade and Services Area. To control the very rapid growth of minimarkets in Denpasar City, the Denpasar City Government issued Denpasar Mayor Decree Number 188.45/495/HK/2011 concerning Guidelines for Implementing Arrangement and Development of Modern Stores (Minimarkets) in Denpasar City (hereinafter referred to as Denpasar Mayor Decree Number 188.45/495/HK/2011).

In the attachment to the Decree of the Mayor of Denpasar No. 188.45/495/HK/2011, it is equipped with 297 networked and non-networked minimarkets according to the Minimarket quota in Denpasar. In addition to the 297 minimarketers, after the expiration of their permits, they will be subject to regulations as stated in the Mayor of Denpasar Decree No. 188.45/495/HK/2011.

In Article 5 of Denpasar Mayor Decree Number 188.45/495/HK/2011:

- (1) Quota for establishment of minimarkets with regular, franchise and independent operator network systems in each district with a ratio of: 1 (one) regular network system, 2 (two) franchise network systems and 4 (four) independent operator network systems, for each business brand network.
- (2) If there is excess network quota for the business as referred to in paragraph (1), then the excess regular network quota can be transferred to the classification of a franchise business or an independent operator.
- (3) The establishment of a Minimarket other than a network system is not subject to the provisions referred to in paragraph (1).

The enactment of the Decree of the Mayor of Denpasar No. 188.45/495/HK/2011 concerning Instructions for the Implementation and Development of Modern Shops (Minimarkets) in Denpasar City does not match what is happening in the field. New permits for network minimarkets, which have been recommended by the village government, are still being issued on the grounds of community or consumer needs. This phenomenon continues until 2020, 9 (nine) years after the Mayor of Denpasar Decree No. 188.45/495/HK/2011 was enacted. So that the quota for minimarkets, both networked and non-networked which has been stipulated in the Decree of the Mayor of Denpasar Number 188.45/495/HK/2011, has far exceeded the quota.

But the implementation of Denpasar Mayor Decree Number 188.45/495/HK/2011, is not as stipulated in Article 5 Denpasar Mayor Decree Number 188.45/495/HK/2011, there are still many violations which, if left unchecked, do not rule out business competition. unhealthy between networked and non-networked minimarkets in Denpasar City.

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Based on the background of the problem, the problem can be formulated as follows:

1. How is the supervision of minimarket licensing in Denpasar City after the enactment of the Mayor of Denpasar Decree No. 188.45/495/Hk/2011?
2. Will the implications of the Denpasar Mayor's Decree Number 188.45/495/Hk/2011 lead to Unfair Business Competition?

### **II. RESEARCH METHOD**

This study uses empirical legal research. Empirical legal research is research in the form of empirical studies to find data regarding the process of occurrence and regarding the process of the operation of law in society. [1]The problem approach used in this study is a sociological approach, examining the problems studied based on facts in the field, supported by statutory and conceptual approaches, namely examining the problems studied based on statutory regulations and legal theories.

### **III. RESULTS AND DISCUSSION**

#### **Supervision of Minimarket Licensing in Denpasar City After the Effectiveness of the Mayor of Denpasar Decree No. 188.45/495/Hk/2011**

Supervision is a process to ensure whether a program is in accordance with what has been planned. [2] Supervision is the whole of activities that compare or measure what is being or has been implemented with predetermined criteria, norms, standards or plans. [2] Supervision is absolutely necessary in an effort to achieve a goal. According to Rahayu Relawati (2012: 108), an important reason in the development and implementation of monitoring systems is because people often make mistakes so that an effective monitoring system is designed to be able to detect wrong forecasts and decisions, so that losses can be minimized. [2] Permit (vergunning) is an agreement from the authorities based on laws or government regulations to in certain circumstances deviate from the prohibition provisions of laws and regulations. Permission can also be interpreted as a dispensation or release/liberation from a prohibition. [3]

Based on Law Number 26 of 2007 concerning Spatial Planning, the forms of control over the implementation of spatial planning basically include four types, namely zoning regulations, permits, provision of incentives and disincentives, and imposition of sanctions:

- a. Zoning Regulations, are provisions governing requirements for spatial use and provisions for their control and are prepared for each designation zone whose zoning is specified in a detailed spatial layout plan;
- b. Licensing, is an attempt to allow or not allow an activity to take place in an area in accordance with the spatial plan, by issuing a permit.
- c. Provision of incentives and disincentives is an effort to direct development by encouraging activities that are in line with the spatial plan and providing efforts to inhibit activities that are contrary to the spatial plan.
- d. Imposition of Sanctions, is an attempt to provide enforcement action on spatial use that is not in accordance with the spatial plan and zoning regulations.

Regarding the element of spatial use control as stated in Article 1 number 15 of Law Number 26 of 2007 concerning Spatial Planning that: "Control of spatial use is an effort to realize spatial order."

In an effort to control the use of space, it is necessary to follow up with zoning regulations. Zoning provisions as part of the efforts of the Denpasar City government in structuring, controlling space, especially regarding zoning provisions are regulated in Regional Regulation Number 27 of 2011 concerning the Denpasar City Regional Spatial Plan for 2011-2031.

For minimarket businesses, supervision must be carried out because supervision is the process of overseeing all business activities to ensure that everything has been carried out in accordance with applicable regulations. Each permit must be closely monitored by the official or agency that issued it. Permits issued must be in accordance with what is happening in the field. Of course, related agencies must cooperate and oversee the implementation of this minimarket license.

Every government program certainly has obstacles in its implementation, as well as running a minimarket business. In the City of Denpasar, there are certainly obstacles and problems in its implementation, namely that from 2011 the number of minimarkets that have been registered and operating totaled 295 (two hundred and ninety five) units with permits issued from 2009-2017 totaling 125 (one hundred and twenty five) minimarket permits. Meanwhile, from 2010 – 2017, 28 (twenty eight) permits were rejected and in 2010-2012, 4 (four) minimarket permits were suspended.

Based on the results of interviews with the Head of Licensing and Non-Licensing Services Section B/III at the Denpasar City Investment and One-Stop Services Office, Kadek Suarningsih, SP, it was noted that out of 295 (two hundred and ninety five) operating minimarket units, 118 (one hundred eighteen) units were network minimarkets, while the remaining 177 (one hundred seventy seven) units were privately owned (individuals). In detail, the minimarkets that are networked are Circle K with 48 (forty eight) units, Indomart with 29 (twenty nine) units, Alfamart with 18 (eighteen) units, Alfa Midi with 6 (six) units, Alfa Express with 2 (two) units, Lotus Mart with 9 (nine) units and Mini Mart with 6 (six) units.

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Issuance of permits for minimarkets in Denpasar City is not only the responsibility of the Denpasar City Investment and One-Stop Service Office, but involves various agencies such as the Denpasar City Industry and Trade Service and the Denpasar City Public Works and Spatial Planning Office. But none of the various institutions that have to collaborate in the minimarket licensing process in Denpasar City ensure that the minimarkets run in an orderly manner in accordance with the Denpasar City Spatial Planning. This is due to the continuing interests that influence the implementation of this minimarket arrangement policy. Interests that influence policy is a term that refers to various interests that influence the implementation of policies. There is a fact that there is a mutual shift of responsibility between agencies in terms of imposing sanctions on minimarkets that violate or have expired permits. Minimarkets that do not have permits but are already operational are still allowed to run a business with the consideration that their permits are still in the process, so as not to shut down their businesses, and so as not to cause unemployment, but they will be coached and supervised.

### **The Implications of the Denpasar Mayor's Decree No. 188.45/495/Hk/2011 Will Cause Unfair Business Competition.**

It cannot be denied that the economic cycle of Denpasar City is primarily driven by trade. Behind its rapid growth, minimarkets have positive and negative effects on society. Minimarkets make it easier for traders to meet their daily needs without having to go to traditional markets. Minimarkets also provide customers or the public with the opportunity to shop, in contrast to traditional markets or people's markets which pay less attention to consumer convenience and sometimes do not provide all the items needed. However, from the perspective of traditional traders, the existence of minimarkets in rural areas is very detrimental to them because their income has drastically decreased. If observed further, the competition between the retail business or contemporary shops and traditional markets or people's markets is becoming increasingly unhealthy. By Decree of the Mayor of Denpasar No. 188.45/495/HK/2011 of 2011 concerning the Guidelines for Arrangement and Development of Modern Stores (Minimarkets), the Denpasar city government has enacted rules regarding modern network stores.

This rule prohibits or stops the issuance of new licenses for modern stores, but many new modern stores (chain modern stores) continue to appear. Because traditional shops follow modern market trends which don't have to be seedy. Before there was a moratorium, actually a number of modern traditional (non-chain) shops already had permits. However, the permit is temporary or valid for only 5 years. Because the moratorium is still in effect today, non-chain modern traditional shops cannot extend their permits when the five years have passed. [4] As a result, many traditional shops have closed in several places in Denpasar; some even chose to close their businesses and purchase modern chain store franchises. Traditional shops are getting worse and worse over time. This is caused by the emergence of modern shops in every road network which are considered to have sufficient potential by retail businesses.

With this phenomenon, of course, the implications of the Denpasar Mayor's Decree No. 188.45/495/HK/2011 of 2011, did not go well, because there were still irregularities in its implementation, which was also caused by the interest of consumers who were more comfortable shopping in modern stores, especially networked modern stores compared to kiosks or traditional markets.

## **IV. CONCLUSIONS AND SUGGESTIONS**

### **Conclusion**

Based on this discussion, it can be concluded that:

1. Supervision of minimarket licensing in Denpasar City after the enactment of Denpasar Mayor Decree No. 188.45/495/Hk/2011, has not been implemented properly. This is because the Mayor of Denpasar Decree No. 188.45/495/HK/2011 concerning Instructions for the Implementation and Development of Modern Shops (Minimarkets) in Denpasar City still allows business actors to establish minimarkets, so there are many minimarkets whose permits have expired on the grounds that they cannot be extended to continue doing business. This is what makes it difficult to supervise licensing faced by the Denpasar City Industry and Trade Office.
2. Implications of the Mayor of Denpasar Decree No. 188.45/495/HK/2011 of 2011, has not gone well, because there are still deviations in its implementation, which is also caused by consumer interest which is more comfortable shopping in modern stores, especially networked modern stores compared to kiosks or in traditional markets.

### **Suggestions**

For the government of Denpasar City, it should issue even stricter policies related to sanctions if it is proven that modern shops are conducting unhealthy business competition with traditional shops, so that in the future traditional shops can develop even better and not be replaced by modern shops.

## **REFERENCES**

- 1) H. Ma'ruf, Pemasaran Rite, Jakarta, 2005, p. 71.
- 2) R. A. R. Sururama, Pengawasan Pemerintah, Bandung: Cendekia Press, 2020.

## Mini Market Existence in the City of Denpasar after Application Decision of the Mayor of Denpasar Number 188.45/495/Hk/2011 in Business Competition Legal Perspective

- 3) Sutedi, Hukum Perizinan Dalam Sektor Pelayanan Publik, Jakarta: Sinar Grafika, 2019, p. 82.
- 4) H. Ismanto, "Analisis Kinerja Keuangan UMKM Tenun Ikat Troso Jepara," Jurnal Economia, vol. 12, no. 2, pp. 159-166, 2016.



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